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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,733	12/21/2001	Magruder C. Donaldson	103129-0005	1386
21125	7590	06/09/2004	EXAMINER	
NUTTER MCCLENNEN & FISH LLP			MENDEZ, MANUEL A	
WORLD TRADE CENTER WEST			ART UNIT	
155 SEAPORT BOULEVARD			PAPER NUMBER	
BOSTON, MA 02210-2604			3763	

DATE MAILED: 06/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/034,733

Applicant(s)

DONALDSON, MAGRUDER, C.

Examiner

Manuel Mendez

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 3-7 and 10-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,8,9,17 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>04/01/2002</u> .  | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

**Claims 3-7 and 10-16** are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities:

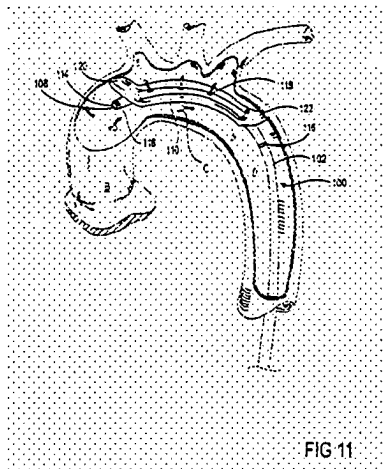
- In line 3, the phrase "an afferent portion" appears to be mistakenly disclosed twice in the same line. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1 and 2** are rejected under 35 U.S.C. 103(a) as being unpatentable over Macoviak, et al.



The cited patent shows in figure 11, a perfusion catheter system for selectively and temporarily delivering perfusion fluid to a branch vessel originating from a host structure having an elongate body with an efferent end portion, a lumen extending therebetween for passage of fluid therethrough; an inflow port at the afferent end portion in communication with the lumen and being configured to be coupled to a perfusion source to receive perfusion fluid, and a hub assembly defining an outflow port at the efferent end portion in communication with the lumen to deliver the perfusion fluid to the branch vessel, the branch assembly being configured for placement over the origin of the branch vessel, wherein the hub assembly provides a water-tight seal with an inner surface of the host structure adjacent the origin of the branch vessel. The cited patent does expressly describe the seal as an atraumatic seal. However, the claim does not disclose a specific structural element to induce this particular type of seal. Therefore, since all the structural elements disclosed in the claim are taught by the Macoviak, et al., Patent, a person of ordinary skill in the art would conclude that such seal is inherent to the structure disclosed by this patent.

**In relation to claim 2**, figure 11 shows a contact ring (120,122).

**Claims 8, 9, 17 and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Macoviak, et al., as applied to claims 1 and 2 above, and further in view of Djerassi and Lennox, et al. The Macoviak, et al., Patent does not disclose the infusion of heparinized blood or the use of a vacuum source to remove substances from the body via catheter. However, the Djerassi Patent demonstrates the conventionality of using heparinized blood in an infusion system, and the Lennox, et al. Patent, demonstrates the conventionality of enhancing catheter infusion systems with vacuum sources to remove substances from the human body. Based on the teachings the above-mentioned references, a person of ordinary skill in the art would have considered the infusion of heparinized blood and the enhancement of a catheter system with vacuum sources obvious design alternatives.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manuel Mendez whose telephone number is 703-308-2221. The examiner can normally be reached on 0730-1800 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Brian Casler can be reached on 703-308-3552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Manuel Mendez', is positioned above the printed name and title.

Manuel Mendez  
Primary Examiner  
Art Unit 3763

MM